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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/988,821	11/20/2001	Ronald J. Vidal	1757.0260001	8685
7590	03/23/2004		EXAMINER	
HOMER I. KNEARL MERCHANT & GOULD P.C. P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			SAFAVI, MICHAEL	
			ART UNIT	PAPER NUMBER
			3673	

DATE MAILED: 03/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/988,821	VIDAL ET AL.
	Examiner	Art Unit
	M. Safavi	3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 30 December 2003.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-26 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-26 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-10 and 13-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morishige in view of Peterson.

Morishige discloses, Figs. 38, 42, and 44, for example, installing a plurality of ducts and cables 6032-6036 extending from one onshore first point to an offshore point or “offshore termination point”, as at or along 6013 or any point of 6002 extending along the seabed, as well as from another onshore second point to an or the same offshore point.

Peterson discloses installation of a plurality of ducts and cables from one onshore first point to an offshore point, or “offshore termination point”, as well as from another onshore second point to an or the same offshore point, col. 1, lines 37-47; col. 2, lines 16-23; col. 3, lines 57-65; 6, lines 36-43; and col. 6, line 57 to col. 7, line 6. The ducts or cables may be placed from onshore to offshore or from offshore to onshore. The offshore point, or “offshore termination point”, can be an offshore platform and may extend several kilometers including up to and more than 50 kilometers from the shore, col. 3, lines 57-65. In both Morishige and Peterson the extension of the ducts and

cables can be seen as spanning a shallow region as well as a relatively deep region of water which would inherently include a continental shelf portion of an ocean floor.

To have extended the ducts and cables of Morishige from either onshore point to offshore point or visa versa for as much as at least 2 kilometers and up to about 20 kilometers from either onshore point to an offshore point as well as span a continental shelf in the process with the depth of an offshore point being at or less than 200 meters, thus covering all offshore intervals which would be included within a onshore to onshore span, (i.e., including all depths, lengths, and formations within the span of water), would have constituted an obvious expedient to one having ordinary skill in the art at the time the invention was made in view of Peterson with Peterson disclosing the flexibility or adaptability of either direction of point to point installation.

3. Claims 1-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson in view of Morishige.

Peterson discloses installation of a plurality of ducts and cables from one onshore first point to an offshore point, or "offshore termination point", as well as from another onshore second point to an or the same offshore point, col. 1, lines 37-47; col. 2, lines 16-23; col. 3, lines 57-65; 6, lines 36-43; and col. 6, line 57 to col. 7, line 6. The ducts or cables may be placed from onshore to offshore or from offshore to onshore. The offshore point, or "offshore termination point", can be an offshore platform and may extend several kilometers including up to and more than 50 kilometers from the shore, col. 3, lines 57-65.

Morishige discloses, Figs. 38, 42, and 44, for example, installing a plurality of ducts and cables 6032-6036 extending from one onshore first point to an offshore point or "offshore termination point", as at or along 6013 or any point of 6002 extending along the seabed, as well as from another onshore second point to an or the same offshore point. In both Morishige and Peterson the extension of the ducts and cables can be seen as spanning a shallow region as well as a relatively deep region of water which would inherently include a continental shelf portion of an ocean floor.

To have extended the ducts and cables of Peterson for as much as at least 2 kilometers and up to about 20 kilometers from either onshore point to an offshore point as well as span a continental shelf in the process with the depth of an offshore point being at or less than 200 meters, thus covering all offshore intervals which would be included within an onshore to onshore span, (i.e., including all depths, lengths, and formations within the span of water), would have constituted an obvious expedient to one having ordinary skill in the art at the time the invention was made in view of Morishige as well as in view of the noted disclosure by Peterson.

### ***Response to Arguments***

Applicant's arguments filed December 30, 2003 have been fully considered but they are not persuasive. As for Applicant's arguments against Morishige in view of Peterson, Peterson had been utilized to teach the flexibility, or adaptability, of either direction of point to point installation of cables within a marine environment. Peterson had also been used to teach distance of application. The principle of such application of

cables can readily be applied to the Morishige environment and method. Thus, the rejection of Morishige in view of Peterson is rational. And, Morishige is within the field of marine construction involving placement and spanning of conduits and cables.

As for Applicant's arguments against Morishige, the cables and conduits of Morishige would, most certainly, originate from an off shore point, (as beyond either side of Fig. 38), as is well established in the marine environment tunnel construction field. And, one or more cables of Morishige would and do terminate at points within the tunnel, (i.e., offshore points), in order to distribute the necessary utilities to the various corresponding components such as lights 6033, as would be realized by one of ordinary skill in the art of marine construction. See, for example, col. 30, line 65 to col. 31, line 8. The language of the rejected claims is met by the combination of Morishige in view of Peterson as well as met by the combination of Peterson in view of Morishige as has been respectively set forth in the above rejections.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Safavi whose telephone number is (703) 308-2481. The examiner can normally be reached on Mon.-Thur., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MICHAEL SAFAVI  
PRIMARY EXAMINER  
ART UNIT 354

M. Safavi  
March 23, 2004

**Attachment for PTO-948 (Rev. 03/01, or earlier)**

**6/18/01**

**The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.**

**INFORMATION ON HOW TO EFFECT DRAWING CHANGES**

**1. Correction of Informalities - 37 CFR 1.85**

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTO-37), the new drawings **MUST** be filed within the **THREE MONTH** statutory period set for reply in the Notice of Allowability. Extensions of time may **NOT** be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

**2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.**

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made, other than correction of informalities, unless the examiner has approved the proposed changes.

**Timing of Corrections**

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a).

Failure to take corrective action within the set period will result in **ABANDONMENT** of the application.